

**State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION**

Division of Insurance

**233 Richmond Street
Providence, RI 02903**

**NOTICE OF PROPOSED REGULATION
AND NOTICE OF PUBLIC HEARING**

Notice is hereby given, in accordance with R.I. Gen. Laws §§ 42-14-17 and 42-35-3, that the Department of Business Regulation ("Department") proposes to enact the following Regulation:

Insurance Regulation 108 – Auto Body Labor Rate Survey

The proposed regulation is design to implement the provisions of R.I.G.L. § 27-29-4.4.

Notice is also hereby given, in accordance with R.I. Gen. Laws § 42-35-2, that the Department of Business Regulation will hold a public hearing beginning at 10:00 a.m. on August 28, 2006 in the Main Hearing Room of the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903, regarding the Proposed Regulation.

Copies of the Proposed Regulation are on file at the Department and copies may be obtained from the Legal Division, Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 during normal working hours on regular business days or by mail upon request. The Proposed Regulation may also be obtained from the Department's website www.dbr.state.ri.us.

In the development of the Proposed Regulations, consideration was given to overlapping approaches, overlap and duplication with other statutory and regulatory provisions and economic impact on small business and cities and towns.

All interested persons may submit their views, data or arguments regarding the Proposed Regulation, including information relating to alternative approaches, duplication or overlap with other state rules or regulations and the economic impact of the Regulations on small business and/or cities and towns, orally at the public hearing or in writing, either by delivering the same in person or United States mail with postage pre-paid thereon to the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 attention Elizabeth Kelleher Dwyer, Hearing Officer or by e-mail to elizabeth_dwyer@dbr.state.ri.us.

ALL SUBMISSIONS MUST BE RECEIVED NOT LATER THAN AUGUST 28, 2006 AT 10:00 A.M.

The hearing room is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Legal Counsel at (401) 222 5400 or TDD 711 not less than ninety-six (96) hours in advance of the hearing date.

A. Michael Marques
Director, Department of Business Regulation

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INSURANCE REGULATION 108

AUTO BODY LABOR RATE SURVEY

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Section 1 **Authority**

This Regulation is promulgated in accordance with R.I.G.L. §§ 27-29-4.4 and 42-14-17.

Section 2 **Purpose**

The purpose of this Regulation is to implement the provisions of R.I.G.L. §§ 27-29-4.4.

Section 3 **Applicability**

Each insurer that writes more than one percent (1%) of the total premium volume of Motor Vehicle Liability Insurance during the immediately preceding calendar year shall conduct an auto body labor rate survey in accordance with R.I.G.L. §§ 27-29-4.4 and this Regulation.

Section 4 **Definitions**

As used in this Regulation:

- A. "Auto body labor rate survey" is a compilation of information gathered from auto body repair shops regarding the rates of labor that repair shops charge in a certain geographic area.
- B. "Department" shall mean the Department of Business Regulation, Insurance Division.
- C. "Full Collision Repair Auto Body Facilities" are those facilities designated as such in Commercial Licensing Regulation 4.
- D. "Motor Vehicle Liability Insurance" shall mean those lines of insurance reported by the insurer in an insurers the annual statement as other private passenger auto liability, other commercial auto liability, private passenger auto physical damage, and commercial auto physical damage.
- E. "Prevailing auto body labor rate" means the rate determined and set by an insurer as a result of conducting an auto body labor rate survey in a particular geographic area, and used by insurers as a basis for determining the cost to settle automobile property damage claims.

Section 5 Determination of Market Share

The percentage of premium volume of Motor Vehicle Liability Insurance for the preceding calendar year will be, determined by the Department in accordance with the premium reported in an insurers' annual statement. Prior to May 1 of the subsequent calendar year, the Department will publish a list of those insurers who meet the applicability requirement. The one percent (1%) premium volume may be reached either by an individual insurer or by a number of insurers within a holding company whose writings reach one percent (1%) or more when combined.

Section 6 Procedure and Deadlines

1. Prior to November 1, 2006, each insurer that wrote more than one percent (1%) of the total premium for Motor Vehicle Liability Insurance in Rhode Island in 2005 shall send a questionnaire substantially in the form attached hereto as Exhibit A to Full Collision Repair Auto Body Facilities. In determining the facilities to which the questionnaire must be sent, insurers shall follow the direction in subsections (3), (4) and (5) below.
2. Each insurer to which this Regulation applies shall, prior to June 1, 2007 and June 1 of each subsequent calendar year, send a questionnaire substantially in the form attached hereto as Exhibit A to Full Collision Repair Auto Body Facilities.
3. Prior to conducting the survey, insurers shall obtain the current list of Full Collision Repair Auto Body Facilities from the Department's Commercial Licensing Division.

4. Insurers will omit from the list obtained in subsection 3 above all of those Full Collision Repair Auto Body Facilities with whom the insurer has a formal agreement and/or contract to provide auto body repair services.
5. Insurers will send the survey to all of the Full Collision Repair Auto Body Facilities that remain after deletion of those facilities indicated in subsection 4 above.
6. Insurers may choose to survey on a group basis. If so, one questionnaire may be sent for the group indicating all of the insurers within that group writing Motor Vehicle Liability Insurance in Rhode Island.

Section 7 Report of Labor Rate Survey to the Department

1. The first report to the Department must be filed not later than February 1, 2007.
2. The second report must be filed no later than September 1, 2007. A survey must thereafter be filed no later than September 1 of each subsequent year.
3. The Labor Rate Survey must include the following:
 - a. A list, including the name and address, of all Full Collision Repair Auto Body Facilities to which the labor rate survey was sent.
 - b. A list of the Full Collision Repair Auto Body Facilities that failed to respond to the questionnaire within the time specified by the insurer.
 - c. A list of questionnaires that were not taken into consideration by the insurer in review of the survey, including the reason that each such questionnaire was rejected for consideration.
 - d. Results of the questionnaires considered by the insurer.
 - e. A description of the formula or manner in which the insurer has calculated or determined the prevailing labor rate which it pays to auto body repair facilities.
 - f. If the calculation or formula indicated in subsection e above is not based on the results of the questionnaires identified in subsection d above, a complete explanation as to why it is not so based.
4. Insurers should include, in detail, all costs associated with complying with this Regulation.

5. Insurers may choose to report on a group basis. If so, one Labor Rate Survey may be filed with the Department for the group indicating all of the insurers within that group writing Motor Vehicle Liability Insurance in Rhode Island.

Section 8 Questionnaire

1. Each insurer to which this Regulation applies shall utilize a survey based substantially on the questionnaire attached hereto as Exhibit A.
2. Insurers shall specify a date upon which the questionnaire must be returned to the insurer. The date specified must grant at least thirty (30) days notice for response.
3. Insurers may allow Full Collision Repair Auto Body Facilities to respond electronically; however, insurers must allow response by hard copy if the Full Collision Repair Auto Body Facilities does not consent to electronic submission.
4. If an insurer finds that the response to a questionnaire is not properly completed or does not provide the full information requested, it shall notify the auto body facility in question of the deficiencies in the information provided.
5. Insurers may disregard the questionnaire if the further information identified, as indicated in subsection 4 above, is not provided within fourteen (14) days of the date of notification to the Full Collision Repair Auto Body Facilities of the additional information required.

Section 9 Severability

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

Section 10 Effective Date

This Regulation shall be effective as indicated below.

EFFECTIVE DATE: October 2, 2006

LABOR RATE QUESTIONNAIRE

To: _____ (Auto Body Repair Facility)

From: _____ Insurance Company

Instructions: This questionnaire should be completed by the auto body repair facility to which it is addressed and returned to _____ Insurance Company at [insert address] no later than [insert due date]. If the information is not complete the survey may be rejected. You will be notified if the questionnaire is not considered complete and given an additional fourteen (14) days to provide complete responses. However, you are strongly encouraged to fully complete the survey initially.

Hourly Rate Charged – Please indicate the hourly rate charged by your facility for auto body repair work. If the rate charged varies, please indicate each and every rate you actually charge, including but not limited to insurance related claims versus non-insurance related claims.

Supporting Documentation: Please provide a description of all of the documents that evidence the actual rate charged (i.e. invoices, rates posted in shop, customer receipts)

Complete Description: Please describe the manner in which you calculate each labor rate charged, providing a complete description of the components, including salary costs, overhead (including a complete and detailed description of the costs you include in overhead) and margin for profit.

**FAILURE TO COMPLETE THIS SURVEY IN FULL MAY RESULT IN ITS
EXCLUSION FROM THE AUTO BODY LABOR RATE SURVEY FILED WITH
THE DEPARTMENT OF BUSINESS REGULATION.**

I declare under penalty of perjury that the information provided is true and correct.

Name: _____

Title: _____